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C O N F I D E N T I A L SECTION 01 OF 04 BAKU 001148

SIPDIS

DEPT FOR EUR/CARC AND DRL FOR DAVID KRAMER AND WENDY SILVERMAN

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TAGS: [PREL](#) [PGOV](#) [KDEM](#) [PHUM](#) [AJ](#)

SUBJECT: DRL A/S KRAMER: DIALOGUE ON DEMOCRACY AND HUMAN RIGHTS

Classified By: Ambassador Anne E. Derse, Reasons 1.4 (b) and (d).

11. (C) Summary: On November 19 DRL A/S David Kramer and the Ambassador attended a marathon meeting at the Foreign Ministry with a wide range of government and non-government officials, chaired by a Deputy Foreign Minister, on the full realm of democracy and human rights issues. Attendees gave briefings on the GOAJ's latest steps on democratic political processes, media freedom, rule of law and human rights. A/S Kramer raised a number of problematic issues in each of these areas, and while the GOAJ listened, they made few promises to address the issues. There has been a spate of bad news on democracy and human rights issues in Azerbaijan since President Aliyev's re-election, and therefore continued USG engagement in this sphere remains critical. End Summary

12. (C) Assistant Secretary of State for Democracy, Human Rights, and Labor David Kramer and the Ambassador met with a large panel of GOAJ officials and non-governmental activists, chaired by Deputy Foreign Minister Vagif Sadikov, on November 19 for over five hours. Despite the GOAJ's reluctance to formally designate the meeting a "Democracy and Human Rights Dialogue," (preferring to characterize it as "consultations on a full range of democracy and human rights issues") the discussion covered the broad range of democracy and human rights issues on the agenda we have discussed quarterly since March 2007.

Introductory Comments

13. (C) DFM Sadikov opened the meeting by welcoming the U.S. guests and expressing his appreciation of relations with the United States. He stated that the GOAJ is looking for more help from the U.S. in solving the Nagorno-Karabakh conflict, as this conflict is an obstacle not only in political-military affairs, but also on the road to further democratization. Sadikov stated that the GOAJ attaches importance to all issues in the democracy and human rights sphere, and that is why the MFA invited a large number of experts to the meeting to provide detailed explanations of difficult topics. A/S Kramer thanked DFM Sadikov and explained that he came to Azerbaijan as a friend, and friends can talk frankly and respectfully to each other.

Democratic Political Processes

14. (C) Natig Mammadov, secretary of the Central Election

Commission, explained a number of improvements made to the election process ahead of the October presidential election. In particular, Mammadov stressed a new emphasis on transparency, including registration of a large number of international and domestic observers, presence of international mass media, live broadcasting of voting stations via webcams, and the conducting of four exit polls. (Note: There were three exit polls conducted by organizations linked to the government, whose methodology was largely unprofessional. The fourth poll he is referring to is probably the Election Monitoring Center's parallel vote tabulation, which is not an exit poll. End note). Mammadov also stated the CEC was pleased by the statements from most observers, but not the statement of the European Union presidency.

15. (C) Kamran Shafiyev, Director of Parliament's Department of State Service and Human Resources, stated that there are no limits on freedom of assembly according to the law. He reminded the group, however, that any meeting that begins peacefully can turn violent, but that the law on police calls for proportional force. He stated the law on political parties was passed in 1991 and now requires changes. The parliament is currently studying international experience, and will make changes after this study is complete.

16. (C) A/S Kramer congratulated the participants on the progress with the presidential election, but encouraged them to work on the areas for improvement highlighted by OSCE/ODIHR, which largely had to do with the pre-election political environment. Specifically, it is important to

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improve the situation of freedom of association and assembly ahead of the 2010 parliamentary elections and to maintain open political space for all interested parties. A/S Kramer asked if the new law on political parties would allocate funding to parties based retroactively on participation in the October presidential election. Shafiyev said this was still under study, to which A/S Kramer asked that the Embassy be kept informed, as retroactive application would be problematic.

Media Freedom

17. (C) Vugar Aliyev of the social-political department of the Presidential Administration, summarized a number of laws on media issues in Azerbaijan. He acknowledged that the financial base of the media is weak and that there is a low level of professionalism in the media. Thus on July 31 the President signed a concept paper on state support to the media, which envisions the use of state resources to address these problems. Ideas on how to implement this will be given to the President at the end of the year, after studying international experience. Aliyev stated that decriminalizing libel would make Azerbaijan's problems with professionalism worse. Similarly, journalists need to be held responsible for any "crimes," and therefore it is problematic to release the jailed journalists. Faig Gurbanov, head of the Human Rights Department of the Ministry of Justice added that the detention conditions of the journalists were fine, and that the Red Cross can visit them.

18. (C) Gafar Jabiyevev of the National Television and Radio Council explained that television and radio broadcasters need to be licensed, as spectrum allocation has to be managed. Any Azerbaijani citizen residing permanently in the country and owning assets in the country can own a frequency. Jabiyevev claimed that international standards are the same as Azerbaijani law. All the foreign broadcasters' licenses are now expired, and there is a growing demand for frequencies, according to Jabiyevev. Therefore the only way for these stations to have licenses is by a change to the law. Jabiyevev then stated that there could be some type of temporary decision because of Azerbaijan's relationship with the U.S.,

but that this could only be a temporary solution. (Note: There are very few FM stations on the air at this point, leaving wide swaths of frequencies that the GOAJ could allocate to new national stations if such a desire existed. End Note.)

¶9. (C) A/S Kramer replied that media freedom is currently the most sensitive area of the bilateral relationship, and that the sense in the West is that media freedom is moving in the wrong direction. This is created by the combination of arrests and attacks on journalists, the announcement on foreign broadcasts, and the increased role of the state in broadcasting. These problems should be addressed by releasing the journalists in jail, the President making a statement condemning violence against journalists, and finding a way to keep foreign broadcasts on the air. A/S Kramer emphasized that these broadcasts would not need to continue forever, but for now they are vitally important in allowing Azerbaijan's citizens access to a diversity of views. He encouraged the GOAJ participants not to let the situation deteriorate to the level of Russia, where journalists end up dead.

¶10. (C) Deputy FM Sadikov replied that the GOAJ is seriously committed to freedom of the media and does not intend to deviate from its goal. The road towards this goal is not smooth, however. He contended that there are hundreds of media outlets in Azerbaijan, and that the majority of them are independent. Overall he says the media environment is critical of the government and not all critics are in jail. In addition, the issue of foreign broadcasters on the radio is not new, as the legislation was passed in 2002 and none of the statements from the international community has mentioned this. He agreed that the U.S. and GOAJ should continue a constructive dialogue on this issue.

Rule of Law

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¶11. (C) Faig Gurbanov of the Ministry of Justice stated that the enhancement of the Soviet-era Collegium, or defense bar, is important. The MOJ is currently studying international experience to decide the best way forward. In addition, the GOAJ has had fruitful cooperation with the American Bar Association for over 10 years and greatly appreciates their help. The MOJ is also working on improving the use of information technology in their court system. They have worked with the World Bank and French and German governments on projects in this sphere and will continue to work on an audio recording system for court protocols. On the Election Monitoring Center, Gurbanov stated that the MOJ registered the organization, but then found non-compliance with its rules and therefore suspended its registration. EMC can use a wide variety of methods to protest this decision, and the MOJ is ready to initiate dialogue with the EMC.

¶12. (C) Huseyn Safarov of the Judicial Legal Council stated that judges should be independent and that the selection of judges should be transparent. Azerbaijan has legislation regulating the function of judges and has been helped by Council of Europe experts. He contended that the Judicial Legal Council is completely independent and that there is a transparent system for court protocols.

¶13. (C) In response to A/S Kramer's question about reform of the Collegium (note: this is Azerbaijan's version of a defense bar), Gurbanov stated that the organization was being reformed. Its future format and shape is still being decided and they are looking to the experience of other former Soviet countries. He stated that these reforms are difficult and that it is important to have political will behind them. He also believes that Azerbaijan needs to increase the number of attorneys, judges and courts, and that this process is still underway. The Ambassador replied that

both civil society and business people say that the independence of the judiciary is the most important issue for the development of Azerbaijan and that this issue should remain at the top of the agenda.

Human Rights

¶14. (C) Faig Gurbanov stated that conditions in prisons were improving, but that the major problem is the legacy of the Soviet penitentiary system. Since 2000, the GOAJ has had an agreement with the International Committee of the Red Cross, who can visit any prison. They have also worked with the Human Rights Ombudswoman on guidelines. The MOJ has also created a public committee to monitor the penitentiary service and well known human rights defenders are members of this committee. A/S Kramer replied that it was also important to work with the Ministry of Internal Affairs (police) to improve conditions in pre-trial detention, to which Gurbanov agreed.

¶15. (C) Oteri Gvaladze of the Presidential Administration's Section on Work with Legal-Protection Organizations stated that the issue of political prisoners is very sensitive. While there is no agreed international definition of a political prisoner, there is a committee working with human rights groups to review sensitive cases. Many of these cases are based on procedural violations during the trial. While human rights groups have submitted contradictory lists of political prisoners, this joint task force has resolved more than 100 cases.

¶16. (C) Aydin Safikhanli of the Human Rights Ombudswoman's Office stated that President Aliyev endorsed a new human rights action plan in December 2006. Many of the topics discussed in the meeting are reflected in this plan. In addition, the Ombudswoman's Office has held public hearings in almost every region of Azerbaijan this year.

¶17. (C) Yusif Asgerov, director of the legal issues and registration section of the State Committee on Work with Religious Associations (SCWRA), stated that the situation of religion in Azerbaijan is stable and religious tolerance is high. He said that there are 519 religious groups registered in Azerbaijan, 32 of which are non-Muslim. The priority work

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of the SCWRA is examining all religious literature that is imported into Azerbaijan, and removing any that is "extremist."

¶18. (C) A/S Kramer replied that in the case of political prisoners, it would be good for the Task Force to prioritize cases that are on the lists of both NGO camps as well as those prisoners with health problems, to which Gvaladze agreed. On religious issues, A/S Kramer warned about the danger of casting too wide a net when looking for extremists, and brought up the case of reported forced beard shaving.

Engaged and Empowered Civil Society

¶19. (C) Rauf Zeyni, chairman of the National NGO Council, stated that there are now over 500 NGOs that are members of the Council. He believes there has been progress on dialogue between NGOs and the GOAJ, especially with the MOJ, MFA, and Ministry of Defense. The NGO Support Council allocated 1.2 million AZN (1.5 million USD) in grants to NGOs in 2008 and plans to give over 2 million AZN in 2009. Zeyni believes this is not enough to solve Azerbaijan's problems, but it is a start. He thanked A/S Kramer for his earlier interview on Radio Liberty and for his continued dialogue on these topics. A/S Kramer agreed that NGOs play a vital role in society, but warned that the creation of government-organized NGOs in Azerbaijan could squeeze out or try to substitute for real NGOs.

Conclusion

120. (C) Deputy FM Sadikov concluded the meeting by asking A/S Kramer in his press statements to call the meeting "consultations on a wide range of issues pertaining to democracy and human rights." He agreed to hold meetings in the future on these topics "anywhere and at any level." He stated that Azerbaijan has progressed tremendously since 1991, but not everything is smooth. He believes it important that Azerbaijan's partners know that its goal is full integration into Euro-Atlantic structures and, even if this target is far off, progress towards it is important. He appreciates the support of the USG and believes that a constructive approach and mutual understanding can solve all problems.

COMMENT

121. (C) A five hour meeting with a dozen interlocutors on human rights and democracy issues, following A/S Kramer's two hour discussion with the President and hour-long meeting with Chief-of-Staff Mehdiyev, is certainly unprecedented in U.S.-AJ relations. The MFA's desire to continue this discussion is also a good sign, given that the European Union has encountered strong resistance to setting up a similar dialogue with the GOAJ. During the five hours, however, the GOAJ made few promises to address the specific issues raised by A/S Kramer, particularly on media freedom. Since Ilham Aliyev's re-election as president in October there have been no new positive initiatives (such as an expected pardon of three imprisoned journalists), and indeed, some steps backwards (such as the threat to terminate VOA, RFE-RL and BBC broadcasts). . The GOAJ has also considerably sharpened its line with respect to the link between resolution of NK and progress on political reform (though, interestingly, President Aliyev did not draw this connection on this visit by A/S Kramer but almost all other interlocutors did). Sustained USG engagement in this sphere is increasingly important, and will remain so for some time to come. END COMMENT

122. (U) Assistant Secretary Kramer has cleared this cable.
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